

REMARKS

The application has been reviewed in light of the Office Action dated September 20, 2004. Claims 1-6 and 12-20 are pending in this application, with claims 1, 5, 6, 12, and 17 being in independent form. Claims 7-11 have been previously canceled. By the present Request for Reconsideration, no claims have been amended. It is submitted that no new matter has been added and no new issues have been raised by the present Amendment.

Applicant appreciates the indication in the Office Action that claims 5 and 6 are allowed.

The Office Action rejected claims 12 and 17 under 35 USC 112, second paragraph, as allegedly “being indefinite for failing to particularly point out and distinctly claim subject matter which applicant regards as the invention.” The Office Action suggests the use of the limitation “from the computer” be added to claim 12, and “computer implemented method” be added to claim 17.

According to the MPEP section 2171, “[t]here are two separate requirements set forth in this paragraph: (A) the claims must set forth the subject matter that the applicant regards as their invention; and (B) the claims must particularly point out and distinctively define the metes and bounds of the subject matter that will be protected by the patent grant.”

In setting forth the subject matter that the applicant regards as their invention, claims 12 and 17 claim methods for recovering a database table that depends on a tablespace. The Office Action suggests that claims 12 and 17 be amended to indicate that the tablespace is received from a computer and that the method is a computer implemented method, respectively. However, the Applicant respectfully contends that the subject matter the

applicants regard as their invention are not so limited and that the metes and bounds of the subject matter of claims 12 and 17 are defined with a reasonable degree of particularity and distinctness. The Applicant respectfully asserts that database tables may be received from sources other than computers. For example, a database table may be received from a human user. For example, the original specification at page 2, lines 1-2, indicates that database table can be updated by a user. It is understood that a database table may be received from any number of sources. The Applicant asserts that limiting the source by which a database table can be received would narrow the claims to exclude subject matter that the applicant regards as the invention. Therefore, because the potential sources for the database table are not limited and because claims 12 and 17 seek to claim the invention irrespective of the specific form of the source, it is asserted that the metes and bounds of the subject matter of claims 12 and 17 are defined with a reasonable degree of particularity and distinctness.

The Office Action rejected claims 1-4 and 12-20 under 35 USC 103(a) as being unpatentable over U.S. Patent Application number 5,721,915 to Sockut et al. (Sockut) in view of U.S. Patent Application number 5,517,641 to Barry et al (Barry).

Independent claim 1 relates to systems for recovering a database tables. Independent claims 12 and 17 relate to methods for recovering a database tables.

Barry et al. relates to the *reorganization* of tablespaces and not to the *recovering* database tables. According to Barry et al., col. 2, lines 6-19,

One problem with any database is that the physical location of the various pages often becomes quite scattered. This is true for the data pages in the tables and the leaf pages in the indices. A disorganization also develops between the clustering index and the data, so that the table data is no longer physically in its intended logical order. This scattering results in reduced performance as now the storage device must move between widely scattered physical locations if logically sequential operations are to be performed. This is

true of whatever type of Direct Access Storage Device (DASD) is used to store the file. Therefore the files need to be reorganized periodically so that the logical and physical ordering of the pages better correspond, thereby improving performance of operations.

Recovering a database table is the process of restoring the database table to a prior effective state, for example, after the database table has been erased or corrupted.

Reorganizing tables, as shown above, is the process of rearranging clusters to reduce the degree to which clusters are scattered.

MPEP 2141.01(a) holds that:

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); and Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993). ...

While Patent Office classification of references and the cross-references in the official search notes are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the inventions to carry far greater weight." In re Ellis, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973) (The structural similarities and functional overlap between the structural gratings shown by one reference and the shoe scrapers of the type shown by another reference were readily apparent, and therefore the arts to which the reference patents belonged were reasonably pertinent to the art with which appellant's invention dealt (pedestrian floor gratings).)

The Applicant respectfully submits that recovering database tables and reorganizing tables are not analogous art as understood in the MPEP. This is because recovering database

tables and reorganizing tables are different in both structure and purpose. For example, the purpose of recovering database tables is to roll back a compromised database table to a previous usable state while the purpose of reorganizing tables is to enhance the way data is organized within the table.

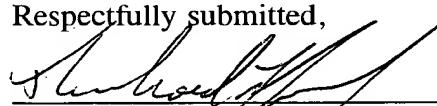
Because Barry et al. relates to reorganizing tablespaces and independent claims 1, 12 and 17 all relate to a database table recovery system or method, it is believed independent claims 1, 12 and 17 are novel and patentable over Barry et al.

The Office is hereby authorized to charge any additional fees that may be required in connection with this amendment and to credit any overpayment to our Deposit Account No. 03-3125.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition, and the Commissioner is authorized to charge the requisite fees to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Entry of this amendment and allowance of this application are respectfully requested.

Respectfully submitted,  
  
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